

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD MAY 18, 2005
PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on May 18, 2005, at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

Chief Jerry Sheridan, Acting Chairman
Ms. Lisa Flores
Mr. Paul Felice, representing Director Dora Schriro
Sergeant Octavio Gradillas, Jr.
Sergeant Tamatha Villar
Chief Patricia Huntsman
Dr. Michael Polakowski
Director Roger Vanderpool
Mr. Joseph Duarte
Chief Jack Harris
Mr. Theodore Campagnolo, representing Attorney General Terry Goddard

Members Absent:

Sheriff Gary Butler
Sheriff Clarence Dupnik

Staff in Attendance:

Tom Hammarstrom
Lyle Mann
Bob Forry
Lynn Larson
Gary Maschner
Ted Brandon
Steve Jacobs
Curt Milam
Marie Dryer
Sgt. Rick Watling
Lois Sherlock

Counsel for Board in Attendance:

Diana Stabler, Assistant Attorney General

Guest Roster:

Marlin Bichitty, Dilkon P.D.

Lt. Heriberto Zuniga, Nogales P.D.

Andy Bacon, NARTA

Lt. James Sutphen, Salt River P.D.

Felipe M. Ruiz

Jeff Rogers, Attorney for Victor Valenzuela

Jon Heiden, AZ Police Corps

Detective Tyesha Bahe, Salt River P.D.

Detective Alfredo Castro, Salt River P.D.

Jan Madeya, ACIP

Mark Timpf, Tucson P.D.

Michael Schuffert

Mark Bonville

Mike Bailey, Mesa Law Enforcement Academy

Donna McDaniel, Attorney for Felipe Ruiz

Kathy Sells, Navajo Department of Public Safety

A. CALL TO ORDER

Acting Chairman Sheridan convened the meeting at 1:30 p.m.

B. INTRODUCTIONS

Executive Director Tom Hammarstrom introduced Sergeant Octavio Gradillas Jr. as POST's newest Board member. Sgt. Gradillas has been with the Nogales Police Department for the last 13 years. Sgt. Gradillas filled the position vacated by Sgt. Zuniga because of his promotion to Lieutenant.

Executive Director Hammarstrom presented a plaque to Lieutenant Zuniga and thanked him for serving as member of the Board and congratulated him on his promotion.

C. CONSENT AGENDA

Approved unanimously, motion made by Chief Huntsman, seconded by Ms. Flores.

1. Minutes of the Regular Board meeting, held on March 16, 2005, were approved as written.

2. Minutes of the Charging Board meeting, held on March 16, 2005, were approved as written.
3. Minutes of the Charging Board meeting, held on April 20, 2005, were approved as written.
4. The next scheduled Regular Board meeting is Wednesday, July 13, 2005, 1:30 p.m. at the Little America Hotel, located at 2515 E. Butler Avenue, Flagstaff, AZ.

5. Ministerial Actions:

- a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Jeremy K. Atwell	Surprise Police Department
Anthony M. Bellissimo	Scottsdale Police Department
Ricardo S. Canez	Nogales Police Department
William C. Dearing	Mesa Police Department
Terry S. Frandsen	Phoenix Police Department
Russell L. Greene	Casa Grande Police Department
Dwayne A. Hartup	Holbrook Police Department
John E. Hert	Coconino County Sheriff's Office
Terry A. McDonald	Apache Junction Police Department
Jane M. Rainey	Mesa Police Department

- b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.
- c. Training Program Confirmations: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were confirmed as requested. LIST ATTACHED TO MINUTES.

6. Decertification Case Status Report Update – As of April 27, 2005, the Compliance and Standards Unit has a caseload of 140 active cases. Fourteen cases are ready for initial presentation; 62 cases need further investigation; 19 cases are pending service of or response to a Notice of Complaint or Decision; 5 cases are pending hearing; 15 cases are ready for final action, and 25 cases are waiting for outside action, i.e., a criminal trial or civil service hearing.

7. Income and Expense Statement – March 2005

Funds as of March 1, 2005	\$ 1,431,110.76
CJEF Revenue	588,432.75
Expenditures/Encumbrances	(990,102.94)
Balance for March 31, 2005	\$ 1,029,440.57

D. REGULAR AGENDA

1. Proposed 2005/2006 Fiscal Year Budget. The AZ POST Finance Advisory Group met on April 26, 2005, to review the 2005/2006 budget in its entirety. The Advisory Group voted unanimously to recommend that the Board adopt the proposed budget. Mr. Duarte made a motion to adopt the proposed 2005/2006 AZ POST budget, seconded by Chief Harris, motion carried unanimously.
2. Minimum Statewide Standards of Conduct: A Discussion. This item was tabled.
3. Request to Waive the Waiver Test: Roger L. Vanderpool. On April 15, 2005, AZ POST received a letter from Roger L. Vanderpool, the Director of the Arizona Department of Public Safety, requesting that the POST Board waive rule 110(D). The specific portions of the rule at issue are the requirement that he take the written waiver test under subsection (5) and perform the proficiencies of shooting, driving and the POPAT under subsection (6).

An elected Sheriff may choose to maintain certification by meeting the usual requirements, but he is not required by statute or POST rule to be certified in order to lawfully perform his law enforcement duties. During Sheriff Vanderpool's tenure as the Sheriff of Pinal County he continued to complete his annual training, which included all continuing training and firearms qualifications.

On April 27, 2005, staff conducted an audit of the current background investigation and determined that Director Vanderpool meets the minimum qualifications of certification. Because it waives a part of the rule, granting this request requires the "103(F) findings", "that the best interests of the law enforcement profession are served and the public welfare and safety is not jeopardized." A.A.C. R13-4-103(F).

Director Vanderpool recused himself from participation and voting on this matter. Ms. Flores made a motion that the Board make the Rule 103(F) findings and grant Roger Vanderpool a waiver of Rules

110(D) (5) and (6), seconded by Chief Huntsman, motion carried unanimously.

E. LEGISLATIVE UPDATE

Deputy Director Mann reported that the end of the legislative session occurred last week, and there were two bills passed by the Legislature that impacted POST. The first bill concerns the cross-certification of federal officers by sheriffs. In the past, there was a list of agencies where federal officers could be cross-certified. This list became outdated, so the law was changed to provide a definition. POST staff has implemented a system where every year a letter will be sent to each of the sheriffs indicating who they currently have as cross-certified officers and ask them to verify the continuation of that cross-certification and also if they would like to add other individuals to the list.

The second bill concerns Federal House Bill 218 whereby the Legislature gave direction to the Department of Public Safety to implement the Law Enforcement Officers Safety Act. This law provides for the carrying of concealed firearms by law enforcement officers (both active and retired), nationwide upon meeting certain criteria. POST staff is working with DPS in how to assist them in implementing the issuance of the necessary documents for compliance with that law.

F. SUMMARY OF CURRENT EVENTS

No report.

G. COMMITTEE UPDATE

Executive Director Hammarstrom reported that the Finance Advisory Group and the Basic Training and Facilities Group met in April, and the Rules Advisory Group will be meeting in July at Pow Wow.

H. REPORTS

1. Basic Training

ALEA – Commander Dean Nyhart stated that he spoke at length at the last Board meeting concerning the steps they were taking to address the attrition rate at ALEA. Commander Nyhart is confident that the steps they are taking in the eleven-point program they have initiated will have a positive impact, and he will have enough data at the end of the year to give a report. They are in the process of updating all six classrooms with year-end carryover money.

Currently there are 176 recruits on campus, representing 18 police agencies.

SALETC – Basic Training Commander Terry Parish reported that 34 recruits are graduating on May 27th. A week later they will start a new class, slated to have 99 recruits from 18 different agencies. After speaking with various academies, there seems to be a global problem concerning the candidate pool. Some of the agencies are not screening physically or academically prior to the academy receiving the candidates. For example, SALETC has two recruits out of the last class that scored 3% and 9% on Cooper's, and 40% is the line between fair and poor. They are trying to encourage the agencies to come up with more creative recruiting methods.

NARTA – Commander Andy Bacon reported that Class #18 graduated on May 13th, with 21 recruits from 9 agencies. They were honored to have Sheriff Sheahan as the keynote speaker. Currently, NARTA is hosting a Basic Supervision course with 25 students in attendance. They will also be sponsoring a DRE class July 18-29, with 15 students signed up. Class #19 will start August 15 – December 9. The driving track project continues. Central Yavapai Fire has hired a consulting firm and they are still in the planning/development phase of this project. When more information is available, NARTA will approach the Board for a request for funding. A General Instructor School will begin June 6th, with 25 students enrolled. AZ POST will conduct a Computer Crimes course in June.

COTA – Commander Jim Branch reported that since February 7th, 60 cadets have graduated. There are 118 cadets presently attending COTA. A K-9 academy is graduating today, with representatives from MCSO, Apache County, Mohave County, San Carlos Tribal Police, and several other agencies.

Mesa Academy – Lt. Mike Bailey reported that Class #24 is scheduled to graduate August 26th, and Class #25 will begin October 10th.

NLETA – Ms. Kathy Sells reported that they currently have 30 recruits out of 54, and they are scheduled to graduate on July 13th.

2. Arizona Police Corps

Director Jon Heiden reported that for 2005 they have been authorized to send their one scholarship recipient to the police academy in North Carolina in July. As of now they are not actively

recruiting while they wait for Congress to make a decision on how much money will be restored to Police Corps.

3. Department of Corrections

No report.

4. Arizona Regional Community Policing Institute

Rod Covey reported that he is on assignment from DPS as the Executive Director of AZRCPI. The next AZRCPI Board meeting is scheduled for June 8, and he will officially be named Executive Director at that time. Also, Chief Karl Auerbach from the Salt River Police Department had been added on the AZRCPI Board. Currently they are working on initiatives that include Leadership Development, Technical Assistance and Ethics, and are continuing work on domestic violence and anti-terrorism training.

Two new initiatives that they will be providing information on in the next few months are Criminal Abatement and Volunteers in Police Service. Criminal Abatement is a program where law enforcement, attorneys and citizens can come together and receive training on how to deal with drug houses, apartments that are crime-infested, etc., and what they can do civilly to correct those issues. This training will be statewide, but initially the training is scheduled for June 21st in Flagstaff and Tucson in August.

The second initiative is called Volunteers in Police Service. This is a program where agencies that do not have a volunteer in policing program can develop this model program and make more use of citizen volunteers within their communities.

I. CASES: Consideration and possible action on the certified status of peace officers.

Case #1 - Sorin Bataneant – Glendale Police Department. Sergeant Villar made a motion to adopt the Findings of Fact and Conclusions of Law and deny peace officer certification, seconded by Mr. Felice, motion carried unanimously.

Case #2 – Marlin Bichitty – Navajo Department of Law Enforcement. The Board considered comments from Assistant A.G. Diana Stabler. Ms. Flores made a motion to adopt the Consent Agreement, Order and Decision signed on this day by Marlin Bichitty for voluntary relinquishment of certification, seconded by Chief Harris, motion carried unanimously.

Case #3 – Mark K. Bonville – Chandler Police Department. The Board considered comments from Assistant A.G. Diana Stabler and Mr. Bonville. Sgt. Gradillas made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Mr. Felice, motion carried unanimously. Ms. Flores made a motion to suspend peace officer certification for one year from August 31, 2004 to August 31, 2005, seconded by Sgt. Villar, motion carried unanimously.

Case #4 – Christopher N. Bratcher – Yuma Police Department. Dr. Polakowski made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Mr. Felice, motion carried unanimously. Dr. Polakowski made a motion to revoke peace officer certification, seconded by Director Vanderpool, motion carried unanimously.

Case #5 – Jeremy J. Ebright – Mesa Police Department. The Board considered comments from Assistant A.G. Diana Stabler. Mr. Felice made a motion to adopt the Consent Agreement, Order and Decision to suspend peace officer certification for a period of 90 days beginning June 18, 2004, seconded by Mr. Duarte, motion carried unanimously.

Case #6 – Chad W. Hale, Arizona Department of Public Safety. *Director Vanderpool recused himself from participation and voting on this case.* The Board considered comments from Assistant A.G. Diana Stabler. Mr. Campagnolo made a motion to adopt the Consent Agreement, Order and Decision to suspend peace officer certification for a period of four months from July 2, 2004 to November 2, 2004, seconded by Sgt. Gradillas, motion carried unanimously.

Case #7 – Thomas W. Lahey – Wickenburg Police Department. *Mr. Campagnolo recused himself from participation and voting on this case.* The Board considered comments from Assistant A.G. Diana Stabler. Chief Harris made a motion to adopt the Consent Agreement, Order and Decision for additional training, seconded by Mr. Felice, motion carried unanimously.

Case #8 – Garrett W. Pierce – Pinetop/Lakeside Police Department. The Board considered comments from Assistant A.G. Diana Stabler. Dr. Polakowski made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Chief Huntsman, motion carried unanimously. Sgt. Gradillas made a motion to deny peace officer certification, seconded by Director Vanderpool, motion carried unanimously.

Case #9 – The Board considered comments from Assistant A.G. Diana Stabler and Donna McDaniel, attorney for Mr. Ruiz. Ms. Flores made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Sgt. Gradillas, motion carried unanimously. Chief Harris made a

motion to revoke peace officer certification, seconded by Sgt. Villar, motion carried unanimously.

Case #10 – Michael D. Russell – Williams Police Department. Dr. Polakowski made a motion to adopt the Consent Agreement, Order and Decision for voluntary relinquishment of certification, seconded by Mr. Campagnolo, motion carried unanimously.

Case #11 – Michael J. Schuffert – Gila River Tribal Police Department. *Director Vanderpool and Sgt. Villar recused themselves from participation and voting on this case.* The Board considered comments from Assistant A.G. Diana Stabler and Mr. Schuffert. Mr. Duarte made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Mr. Felice, motion carried unanimously. Dr. Polakowski made a motion to revoke peace officer certification, seconded by Chief Huntsman, motion carried unanimously.

Case #12 – Mark A. Stewart – Arizona Department of Transportation/MVD. *Mr. Felice recused himself from participation and voting on this case.* The Board considered comments from Assistant A.G. Diana Stabler. Sgt. Gradillas made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Chief Harris. Dr. Polakowski made a motion to suspend peace officer certification for a period of six months from May 18, 2005, to November 18, 2005, seconded by Chief Huntsman, motion carried unanimously.

Case #13 – Erin R. Todecheene – Pascua Yaqui Tribal Police. Director Vanderpool made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Ms. Flores, motion carried unanimously. Ms. Flores made a motion to suspend peace officer certification for a period of one year, from May 18, 2005 to May 18, 2006, seconded by Mr. Felice, motion carried with one nay vote.

Case #14 – Victor H. Valenzuela – Eloy Police Department. *Director Vanderpool and Sgt. Villar recused themselves from participation and voting on this case.* Mr. Duarte made a motion to adopt the Findings of Fact and Conclusions of Law and dismiss this case, seconded by Mr. Campagnolo, motion carried unanimously.

Case #15 – Robert H. Wade – Gila County Sheriff's Office. Mr. Felice made a motion to adopt the Consent Agreement, Order and Decision for voluntary relinquishment of peace officer certification, seconded by Sgt. Gradillas, motion carried unanimously.

J. CALL TO THE PUBLIC

None received.

K. ADJOURN

Acting Chairman Sheridan adjourned the meeting at 3:05 p.m.

Dated May 23, 2005

Lois Sherlock, Recording Secretary